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In the High Court of Punjab & Haryana at Chandigarh.

Date of decision : 19.10.2006.

Lakhmi .... Petitioner.

vs

Gir Raj Singh .....Respondent.

Coram Hon'ble Ms. Justice Kiran Anand Lall.

Present: Mr.Chander Singh Kaushik,Advocate,for the petitioner.

Kiran Anand Lall, J.

In a suit pending between the parties in the court of Civil Judge (Senior Division), Faridabad, the petitioner (plaintiff) also prayed for the relief of temporary injunction, restraining the respondent from interfering with his possession over the suit property and also from alienating, mortgaging, or selling it, during the pendency of the suit.

The trial court declined the relief of temporary injunction to the petitioner, observing, inter-alia, that, "*Since the matter is sub judice before the Hon'ble High Court and status-quo is already granted regarding the possession between both the parties, hence, the present application has no value and the same is hereby dismissed."* The appellate court, too, did not grant any relief to the petitioner. Relevant part of the order of appellate court, dealing with his alleged possession over the land, reads as under:-

> "..... *it is claimed by appellant that he is in possession of suit property and respondent wants to dispossess him from the same forcibly and illegally on the basis of*

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revenue entries. However, this contention of learned counsel for the appellant is devoid of legal force because prima-facie, there is no evidence on the record that appellant is in possession of the suit land because in para No.55 of judgment dated 7.11.1998, it has been held by the then learned Addl. District Judge, Faridbad, that possession of either Lakhmi or Phool Singh has not been established by cogent evidence. No doubt, the said judgment and decree dated 7.11.1998 are under challenge before the Hon'ble High Court but until and unless the same are set aside, it cannot be said that prima-facie the appellant is in possession of suit land, particularly, when the latest revenue entries on the basis of judgment dated 7.11.1998 are in favour of respondent."

The petitioner is, now, in revision against the said orders, passed by the trial court and the appellate court, wherein his prayer is, for grant of temporary injunction restraining the respondent from dispossessing him from the land and also from interfering with his peaceful cultivating possession thereon.

During arguments, it has not been disputed by the learned counsel that in RSA No.72 of 1999, filed by the petitioner-herein against the respondent-herein against judgment and decree dated 7.11.1998, the interim order passed by this court, on 4.8.1999, in respect of the same disputed land is, that "*parties shall maintain status-quo regarding possession"*. He, infact, stated that this fact has been mentioned by him, in the petition itself. That

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being so, the approach of the trial court and the appellate court in refusing to pass any temporary restraint order against the respondent, in view of the order of status quo already passed by this court in respect of the same land, in RSA No.72 of 1999, is fully justified.

In view of the above, no interference with the impugned orders is called for. The petition shall stand dismissed, in limine.

19.10.2006. (Kiran Anand Lall)
vs. Judge.